

Press ReleaseNational Labor Relations Board

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Michigan beer distributors pay out \$41 million for bad faith bargaining

WASHINGTON--An illegal arrangement by five Southeastern Michigan beer distributors in bargaining with the International Brotherhood of Teamsters on behalf of about 2,000 employees has resulted in total back pay of \$41 million, one of the largest on record for the NLRB.

Individual employee back pay varied widely, depending on the job performed and the amount of time worked during the back pay period, from April 1991 through June 1998. The largest single payment to an individual employee was \$282,000. All five distributors are still in business.

The five employers entered into an illegal "mutual aid pact" for negotiations with Teamsters Local 1038. Each employer declared impasse after a period of fruitless bargaining and imposed a new contract, which resulted in substantially lower income and reduced benefits for employees, particularly the drivers.

Teamsters Local 1038 filed charges of bad faith bargaining, and the illegal arrangement surfaced during the subsequent investigation and hearing. After the NLRB Regional Director issued a consolidated complaint based on his finding that there was reasonable cause to believe that the beer distributors committed unfair labor practices, an administrative law judge found that such violations had occurred, as did the Board and the Sixth Circuit Court of Appeals. The employers appealed to the Supreme Court, which declined to hear the matter in 1999.

During the ensuing years, thorough investigations were conducted to determine what the workers would have earned if not for the unfair labor practices which stemmed from the illegal arrangement. Four employers – Don Lee Distributor, Inc., Powers Distributing Co., Inc., Eastown Distributors Co., and Oak Distributing Co. – agreed to the settlement terms by 2003. However, Hubert Distributors, Inc. continued to litigate, and

unsuccessfully appealed the methodology and amount of the compliance determination to the Sixth Circuit. When the appeal failed in August 2006, the NLRB conducted an exhaustive search for the remaining 300 affected workers (and their heirs, where appropriate), which concluded this fall.

"We hope this sends a message that the NLRB takes violations of the National Labor Relations Act seriously, and we will pursue justice no matter how long it takes," said Stephen Glasser, Regional Director of the NLRB Detroit office.

The National Labor Relations Board is an independent federal agency created by Congress in 1935 to administer the <u>National Labor Relations Act</u>, the primary law governing relations between unions and employers in the private sector. The statute guarantees the right of employees to organize and to bargain collectively with their employers, and to engage in other protected concerted activity with or without a union, or to refrain from all such activity.

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